

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

PHILLIP QUINTERO,

Defendant.

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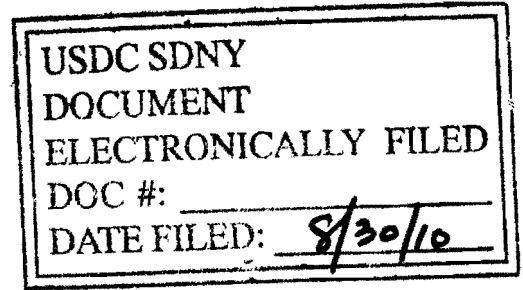
A P P E A R A N C E S:

Pro Se

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07 Cr. 460-01 (RWS)

OPINION

Sweet, D.J.

Defendant Phillip Quintero ("Quintero" or the "Defendant") has moved pro se for a reduction of his sentence, pursuant to 18 U.S.C. § 3582(c)(2), in light of the recent amendments to the Sentencing Guidelines for offenses involving crack cocaine. For the reasons set forth below, Quintero's motion is granted and the term of his imprisonment is reduced to 70 months.

Prior Proceedings

On June 12, 2008, Quintero pleaded guilty to conspiracy to distribute and possession with intent to distribute five grams or more of crack cocaine in violation of 21 U.S.C. §§ 812, 841(a)(1), and 841(b)(1)(B), and to distribution and possession with intent to distribute five grams or more of crack cocaine in violation of 21 U.S.C. §§ 812, 841(a)(1), 841(b)(1)(B), and 846.

On November 8, 2008, Quintero was sentenced to 87 months' imprisonment and 4 years' supervised release, and was required to pay a special assessment of \$200. This sentence was at the bottom of the Guidelines range of 87 to

108 months, which was based on an adjusted total offense level of 27 and a Criminal History Category of III.

Quintero's current projected release date is March 8, 2015. He has not appealed his conviction or sentence prior to the instant motion for reduction in sentence. The Government does not oppose Quintero's request for a sentence reduction consistent with the Sentencing Guidelines.

The instant motion was marked fully submitted on August 16, 2010.

Discussion

Quintero contends that he "has met all requirements of the institution of incarceration and meets all criteria for eligibility for reduction in sentence to one at the bottom of the guidelines range 2 levels lower than it currently is." (Def. Mot. 2.) According to the Government, Quintero has had two minor disciplinary incidents while in Bureau of Prisons custody, neither of which counsels against granting a sentence reduction. The Government therefore does not oppose Quintero's request.

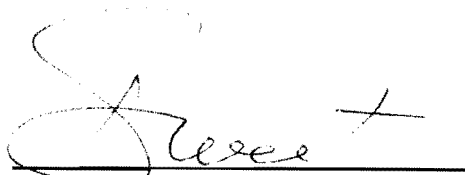
Applying the amended Guidelines, Quintero's total offense level is 25, resulting in an applicable Guidelines range of 70 to 87 months' imprisonment. At the original sentencing in this matter, a sentence at the bottom of the Guidelines range was found to be "'sufficient, but not greater than necessary' to accomplish the goals of sentencing." Kimbrough v. United States, 552 U.S. 85, 102 (2007) (quoting 18 U.S.C. § 3553(a)). Accordingly, a reduction of term of imprisonment to 70 months, a sentence at the bottom of the amended Guidelines range, is appropriate.

Conclusion

For the reasons set forth above, Quintero's motion for a reduction in his sentence is granted and the term of his imprisonment is reduced to 70 months.

It is so ordered.

New York, NY
August 26, 2010



ROBERT W. SWEET
U.S.D.J.